THE HON'BLE SRI JUSTICE A.GOPAL REDDY

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WRIT PETITION No.19026 of 2005

DATED: 18-04-2006

Between:

Mr.V.Narasimha Rao . . .Petitioner

and

The Govt. of A.P., Hyderabad, and others . . .Respondents

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O R D E R:

The petitioner, who claims to be the owner of land admeasuring Ac.15-27 guntas situated at Ponkal Village, Duggondi Mandal, Warangal District, invoked the Mandamus jurisdiction of this Court under Article 226 of the Constitution of India for issuing necessary directions to the respondents to take steps for acquiring his land, for payment of compensation based on the prevalent market value and for payment of a sum of Rs.5,00,000/- towards compensation for the loss suffered and for deprivation of his livelihood for the last several years.

The Mandal Revenue Officer, Duggondi, through his letter *vide* No.B/551/2003, dated 23-06-2003, intimated the District Collector, Warangal, that during Rabi, 2003, the petitioner raised Bengalgram and jute crops in various extents of land situated in various survey numbers, and that due to diversion and overfilling of SRSP water into Ooracheruvu tank, his standing crops were substantially damaged resulting in an estimated loss of Rs.25,000/- to him. The Mandal Revenue Officer requested the District Collector for sanctioning necessary relief to the petitioner taking the above circumstances into consideration.

Learned counsel for the petitioner submits that since 1992 onwards, the lands of the petitioner were submerged due to overfilling of SRSP water into the said tank and

therefore, the respondents are under obligation to see that the petitioner's land would not be submerged by maintaining water level of the tank.

Admittedly, the petitioner lands are Shikam lands. Whether they are cultivable in Rabi season or in Kariff season or in both the seasons is a disputed question of fact, which has to be gone into by the authorities concerned or a properly constituted civil Court for assessing the damages. In view of the same, no Mandamus, as such, can be issued giving direction to the respondents for acquiring the lands of the petitioner, unless it is established that the lands of the petitioner are not within the Full Tank level to cultivate the crops. However, the petitioner is at liberty to file a civil suit with necessary pleadings, seeking compensation for the loss, if any suffered by him. On filing such suit, it is for the civil Court to assess the loss or damage sustained by the petitioner subject to law of limitation, if any.

Further, the District Collector is hereby directed to consider the representation, if any submitted by the petitioner in the light of the letter addressed by the Mandal Revenue Officer as referred to above for payment of compensation. It is needless to say that after due enquiry, the District Collector shall pass necessary orders for payment of compensation to the petitioner.

With the above observations, the writ petition is disposed of. There shall be no order as to costs.

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(A.GOPAL REDDY, J)

18th APRIL, 2006.

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